

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Charles & Tammy Simon,
Appellants,

v.

City of Cedar Rapids Board of Review,
Appellee.

ORDER

Docket No. 14-101-0248
Parcel No. 14091-03012-00000

On February 13, 2015, the above-captioned appeal came on for written consideration before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. Charles and Tammy Simon were self-represented and requested the appeal proceed without hearing. City of Cedar Rapids Attorney Jim Flitz was counsel for the Board of Review. The Appeal Board having reviewed the record and being fully advised finds:

Findings of Fact

Charles and Tammy Simon are the owners of a residential, one-story home located at 1712 Texas Avenue NE, Cedar Rapids, Iowa. The property was built in 1957 and has 1251 square-feet of living area, including a finished attic, and a full basement with 484 square feet of low-quality living-quarter finish. There is also a one-car detached garage built in 1962. The site is 0.165 acres.

The Simons protested the January 1, 2014, assessment of \$125,671, allocated as \$33,000 in land value and \$92,671 in improvement value, to the City of Cedar Rapids Board of Review. This assessment was a change in value from the previous year, and thus, all grounds for protest were available under Iowa Code section 441.37(1)(a)(1). The appeal form in the record is blank; however, the 2014 Board of Review Summary Sheet indicates that the Simons asserted their property was

inequitably assessed and assessed for more than authorized by law under sections 441.37(1)(a)(1) and (2). The Board of Review denied the appeal.

The Simons then appealed to this Board. They claim the property's correct fair market value is between \$116,123 and \$119,480.

The record includes multiple from the Simons. First, they provided a summary of results regarding a search for sales within the last twelve months. (Exhibit 1). The search criteria the Simons' used to find their sales is vague and the exhibit is unexplained, which limits its usefulness. However, it would appear they believe this exhibit demonstrates a range in sales prices from \$114,900 to \$119,900 of properties similar to theirs.

The Simons assert they do not believe the City of Cedar Rapids is updating property information and assessing properties fairly. The Simons reference three properties on their street they assert demonstrate inequity. (Exhibit 4). The properties are located at 1708, 1716, and 1701 Texas Avenue.

They submitted a property record and listing printout from *FSBOHomes.com* for the property located at 1708 Texas Avenue. (Exhibits 2-3). This property sold in 2010 for \$138,500 and again in 2012 for \$132,500, yet has a 2014 assessment of \$111,840. The listing information indicates the property had updates, which the Simons assert are not reflected on the property record information obtained from the Assessor's website.

They also explained that they believe the garage located on the property at 1716 Texas Avenue should be assessed at a higher rate as it is almost as big as the home's main floor, takes up a large part of the backyard, and because the neighbor uses it for social activities.

Lastly, they assert the property at 1701 Texas Avenue also has had "several updates" which are not reflected on the assessment.

We note the gist of their assertions actually does not establish the market value of their home or inequity in their assessment, but may indicate some of the other properties are not assessed at market value if features exist that have yet to be picked up on the assessment. We note Assessors may not have access to the marketed listings of all properties as occasionally updates are made to properties without permits, which would alert the Assessor's Office as to changes in the property's listing, and it is possible updates have occurred that have yet to be reflected in the assessment records.

The Simons also submitted a copy of an October 17, 2014, article from The Cedar Rapids Gazette that states, in part, that the median sale price of homes in Cedar Rapids dropped 3.5% from September 2013 to September 2014. (Exhibits 10 & 11). We do not find this information relevant in determining the fair market value of the subject property as of January 1, 2014.

Additionally, the Simons submitted a letter postmarked to this Board on February 5, 2015. The letter is a response from the Simons to the City Assessor regarding settlement. However, this Board does not consider negotiations between the parties as evidence of market value and we give it no consideration.

Finally, the Simons submitted what they determined to be the correct value of their property, which they now assert is \$115,962. (Exhibit 14). They start with the price they paid for the property in 2010, \$119,480, and subtract value for features they have removed such as a storage shed and patio. Further, they reduce the contributory value of their enclosed porch to something less than its current assigned value on their assessment to arrive at their opinion. This is not typical methodology in arriving at a market value opinion of real property. Typically, an appraisal, a comprehensive market analysis, or a cost or income approach to value is completed to determine the market value of a property.

The Board of Review submitted a spreadsheet of Simons' three equity comparables. (Exhibit C). We note that as compared to the subject, all three properties are smaller. The assessments range

between \$97.04 and \$129.82 per square foot as compared to the subject's assessment of \$100.46, which is at the lower end of this range. None of these properties sold recently nor was an opinion of market value established for each property to determine an assessment/sales ratio.

The Board of Review also submitted four properties it considered comparable to the subject property for an equity analysis. (Exhibit F). We do not find it necessary to recite or analyze the properties the Board of Review selected because like the Simons' selected properties, none have recently sold nor was an opinion of the market value established for each property. Therefore, an assessment/sales ratio cannot be calculated and it is insufficient for an equity claim.

Finally, the Board of Review submitted four sales of reasonably comparable properties. It adjusted these properties for differences such as bath fixtures and basement finish, among other things, to establish a market value opinion for the subject property. (Exhibit G). The properties sold between April 2012 and June 2013. The adjusted sales prices of the comparables ranged from \$119,140 to \$127,730, which supports the subjects assessed value of \$125,671.

Conclusions of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct.

§ 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions reflecting market value are to be considered in arriving at market value. § 441.21(1)(b). Conversely, sales of property in abnormal transactions not reflecting market value shall not be taken into account. *Id.*

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

Id. at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

The Simons offered three properties they considered comparable to theirs for an equity analysis. However, none recently sold or had another opinion of their market value; therefore, there is insufficient evidence to determine an assessment/sales ratio using these properties. Likewise, the comparables submitted by the Board of Review lacked information to determine an assessment/sales ratio. Moreover, the Simons did not assert that the Assessor failed to uniformly apply an assessing method to similarly situated or comparable properties. For these reasons, the Simons failed to show their property is inequitably assessed as compared to like properties.

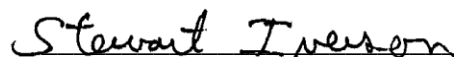
In an appeal alleging the property is assessed for more than the value authorized by law under section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). The record contains four sales, submitted by the Board of Review, that were adjusted for differences. The subject property's assessment of \$125,671 falls within these properties' adjusted range of value. Conversely, the Simons did not submit any sales data to support their claimed value of \$115,962. As a result, we find that a preponderance of the evidence does not support their claim that the property is assessed for more than authorized by law.

THE APPEAL BOARD ORDERS the 2014 assessment of Charles and Tammy Simon's property located at 1712 Texas Avenue, Cedar Rapids, Iowa, set by the City of Cedar Rapids Board of Review, is affirmed.

Dated this 6th day of March, 2015.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

Cc:

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